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Attorneys for Defendant
DAVID EDLIN

UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

OAKLAND

JANET HALEY,	)	Case No. C10-03856-PJH
)	
Plaintiff,	)	STIPULATION TO CONTINUE
	)	PLAINTIFF'S MOTION TO QUASH,
v.	)	OR ALTERNATIVELY, TO MODIFY,
	)	THE THIRD PARTY SUBPOENA
COHEN & STEERS CAPITAL	)	SERVED ON CONSTELLATION
MANAGEMENT, INC., A New York	)	ENERGY GROUP, INC. AND
Corporation Doing Business in California; and	)	SUBPOENAS/DEPOSITION NOTICES

1	DAVID EDLIN, an individual,	)	WITH DOCUMENTS REQUESTED
2	Defendants.	)	DIRECTED TO THIRD PARTY
3		)	WITNESSES CHAD FEILKE AND
4		)	GREGORY KOSIER

IT IS HEREBY STIPULATED, by and among Plaintiff JANET HALEY (“Plaintiff”), Defendant COHEN & STEERS CAPITAL MANAGEMENT, INC. (“Cohen & Steers”) and Defendant DAVID EDLIN (“Edlin”) (collectively the “Parties”), through their respective undersigned counsel, as follows:

WHEREAS, Defendants served a Notice of Deposition of third party witness Gregory Kosier (“Kosier”) on June 22, 2011 (and have unsuccessfully attempted to serve the accompanying subpoena on Kosier) noticing the deposition of Kosier for July 20, 2011;

WHEREAS, Defendants served a Notice of Deposition of third party witness Chad Feilke (“Feilke”) on June 23, 2011 and served the accompanying subpoena on Feilke on June 27, 2011 noticing the deposition of Feilke for July 22, 2011;

WHEREAS, Defendants served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises to Constellation Energy Group, Inc. (“Constellation Energy”) (Mr. Kosier’s employer) on June 27, 2011;

WHEREAS, Plaintiff served her Objections to Defendants’ Notice of Deposition of Gregory Kosier and Request for Production of Documents on July 1, 2011;

WHEREAS, Plaintiff served her Objections to Defendants’ Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises to Constellation Energy Group, Inc. on July 1, 2011;

WHEREAS, Plaintiff subsequently filed her Motion to Quash, or Alternatively, to Modify, the Third Party Subpoena Served on Constellation Energy Group, Inc. and Subpoenas/Deposition Notices With Documents Requested Directed to Third Party Witnesses Chad Feilke and Gregory Kosier (“Motion to Quash”) on July 6, 2011 and set a hearing date for August 23, 2011;

WHEREAS, the deadline by which Defendants would have been required to file their

1 Opposition to Plaintiff's Motion to Quash was July 20, 2011;

2 WHEREAS, the deadline by which Plaintiff would have been required to file her Reply
3 in support of her Motion to Quash was July 27, 2011;

4 WHEREAS, the Parties have agreed to seek the services of a Special Master and/or
5 Discovery Referee to handle discovery disputes going forward;

6 WHEREAS, the Parties agree that the issues or disputes surrounding the deposition
7 notices and/or subpoenas mentioned herein will be the subject of review and decision by the
8 prospective Special Master and/or Discovery Referee;

9 WHEREAS, Defendants informed Quest Discovery Services that the order for records
10 subpoenaed from Constellation Energy should be placed on a thirty-day hold, and will not be
11 released to either party until August 13, 2011 at the earliest;

12 WHEREAS, the Parties have also contacted Constellation Energy and informed them that
13 the Motion to Quash is pending and that records need not be produced until further notice;

14 WHEREAS, the Parties have agreed to hold a Case Management Conference with the
15 Honorable Judge Phyllis J. Hamilton on August 25, 2011 to make a determination with respect to
16 appointment of a Special Master and/or Discovery Referee;

17 IT IS HEREBY STIPULATED AND AGREED by and among the Parties, through their
18 respective undersigned counsel, that Plaintiff's Motion to Quash is to be taken off calendar and
19 the hearing date for the Motion to Quash is to be continued indefinitely pending the procuring of
20 a Special Master and/or Discovery Referee who will decide the issues that are the subject of the
21 Motion to Quash, and that the Parties' respective deadlines for Defendants' brief in Opposition
22 to Plaintiff's Motion to Quash, and Plaintiff's brief in Reply to Defendants' brief in Opposition
23 be accordingly continued indefinitely;

24 IT IS HEREBY FURTHER STIPULATED AND AGREED by and among the Parties
25 that if, for any reason, a Special Master and/or Discovery Referee is not retained and/or has not
26 made a decision with respect to the issues that are the subject of the Motion to Quash on or by
27 August 13, 2011, that the Parties will contact Quest Discovery Services and ask that the order for
28 records continue to be placed on hold pending resolution of the issues with respect to the

1 subpoena for records to Constellation Energy, whether through a new hearing date for the
2 Motion to Quash, by agreement of the Parties or by later decision of the Special Master and/or
3 Discovery Referee, and will further notify Constellation Energy of the status of the Motion to
4 Quash and subpoena;

5 IT IS HEREBY FURTHER STIPULATED AND AGREED by and among the Parties
6 that, should Plaintiff's Motion to Quash be placed back on calendar and set for hearing at any
7 time, Defendants shall have seven calendar days from the date the Motion to Quash is placed
8 back on calendar to file their brief in Opposition to Plaintiff's Motion to Quash, and accordingly,
9 Plaintiff shall have seven calendar days from the deadline for Defendants' brief in Opposition to
10 Plaintiff's Motion to Quash in which to file her brief in Reply to Defendants' brief in Opposition
11 to Plaintiff's Motion to Quash, and in no instance shall the hearing for Plaintiff's Motion to
12 Quash be set earlier than seven calendar days after the deadline for Plaintiff's brief in Reply to
13 Defendants' brief in Opposition to Plaintiff's Motion to Quash.

1 IT IS SO STIPULATED.

2 DATED: August 2, 2011

SHEA LAW OFFICES

3 By: /s/ Mary Shea Hagebols
4 Mary Shea Hagebols
5 Attorney for Plaintiff
6 JANET HALEY

7 DATED: August 2, 2011

VAN DE POEL, LEVY & ALLEN LLP

8 By: /s/ Jeffrey W. Allen
9 Jeffrey W. Allen
10 Nina Paul
11 Attorneys for Plaintiff
12 JANET HALEY

13 DATED: August 2, 2011

SEYFARTH SHAW LLP

14 By: /s/ Matthew J. Mason
15 Francis J. Ortman, III
16 Matthew J. Mason
17 Attorneys for Defendant
18 COHEN & STEERS CAPITAL
19 MANAGEMENT, INC.

20 DATED: August 2, 2011

AKIN GUMP STRAUSS HAUER & FELD
LLP

21 By: /s/ Catherine A. Conway
22 Catherine A. Conway
23 Attorney for Defendant
24 DAVID EDLIN

~~—[PROPOSED] ORDER~~

The parties having so stipulated, and GOOD CAUSE APPEARING THEREFORE, IT IS
HEREBY ORDERED that:

Plaintiff shall file a Notice and Withdrawal of Motion. Withdrawal of the motion is without prejudice to re-noticing the motion at a later date. ~~Plaintiff's Motion to Quash is off calendar and the hearing date for the Motion to Quash is continued indefinitely pending the procuring of a Special Master and/or Discovery Referee who will decide the issues that are the subject of the Motion to Quash, and the Parties' respective deadlines for Defendants' brief in Opposition to Plaintiff's Motion to Quash, and Plaintiff's brief in Reply to Defendants' brief in Opposition are accordingly continued indefinitely.~~

If, for any reason, a Special Master and/or Discovery Referee is not retained and/or has not made a decision with respect to the issues that are the subject of the Motion to Quash on or by August 13, 2011, the Parties will contact Quest Discovery Services and ask that the order for records continue to be placed on hold pending resolution of the issues with respect to the subpoena for records to Constellation Energy, whether through a new hearing date for the Motion to Quash, by agreement of the Parties or by later decision of the Special Master and/or Discovery Referee, and further notify Constellation Energy of the status of the Motion to Quash and/or subpoena;

Should Plaintiff's Motion to Quash be ^{re-filed} ~~placed back on calendar~~ and set for hearing at any time, Defendants shall have seven calendar days from the date the Motion to Quash is ^{re-filed} ~~placed back on calendar~~ to file their brief in Opposition to Plaintiff's Motion to Quash, and accordingly, Plaintiff shall have seven calendar days from the deadline for Defendants' brief in Opposition to Plaintiff's Motion to Quash in which to file her brief in Reply to Defendants' brief in Opposition to Plaintiff's Motion to Quash, and in no instance shall the hearing for Plaintiff's Motion to Quash be set earlier than seven calendar days after the deadline for Plaintiff's brief in Reply to Defendants' brief in Opposition to Plaintiff's Motion to Quash.

IT IS SO ORDERED.

DATED: August 3, 2011

Elizabeth D. Laporte

MAGISTRATE JUDGE ELIZABETH D. LAPORTE
UNITED STATES DISTRICT COURT